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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/724,996	11/29/2000	Hendrikus Antonius Jacobus Kuenen	BO 43142	8549

466 7590 04/22/2003

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EXAMINER

BECKER, DREW E

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 04/22/2003

127

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/724,996

Applicant(s)

KUENEN, HENDRIKUS  
ANTONIUS JACOBUS

Examiner

Drew E Becker

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-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2-13 and 15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-13, 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Request for Continued Examination***

1. The request filed on February 25, 2003 for an RCE based on parent Application No. 09/724,996 is acceptable and an RCE has been established. An action on the RCE follows.

### ***Specification***

2. The disclosure is objected to because of the following informalities: it lacks section headings such as "Brief Description of the Drawings" and "Detailed Description of the Invention".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2-13 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 15 recites "an adjustable support mechanism (14, 15)" as well as "adjustable supports (14, 15)". It is not clear whether these are the same element or not. If they are, it is not clear how a component can be used to define itself.

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6. Claim 11 recites "a tank" and "a cover". It is not clear whether these are the same tank and cover elements of parent claim 15.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2-13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benson et al [Pat. No. 3,309,981] in view of Naramura [Pat. No. 5,549,040].

Benson et al teach a fryer comprising a feed belt (Figure 1, #52), a base frame (Figure 3, #69), a top belt (Figure 1, #51), an auxiliary frame (Figure 3, #53), a tank holding an oil bath (Figure 3, #11, & 201), adjustable supports (Figure 5a, #87), coupling means (Figure 5a, #91), a cover (Figure 1, #181), and a lifting device (Figure 1, #191), and cables, winders, and pulleys (Figure 1, #191-193). Benson et al do not teach a central control element and drive for simultaneous adjustment of the supports, the drive being located outside the tank and cover, and the ramps being connected to a cable, winder, and pulleys. Naramura teaches an elevatable cooking device comprising ramps (Figure 1, #5), a central control element and drive for simultaneous adjustment of the supports (Figure 6, #10 & M), a pull element (Figure 1, #6), and the drive being located outside of the cooking chamber (Figure 6, M). It would have been obvious to one of ordinary skill in the art to incorporate the lifting structure of Naramura into the invention of Benson et

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al since both are directed to cooking devices with dual surfaces, since Benson et al already includes adjustable lifting supports (Figure 5a, #87), motors located outside the tank (Figure 1, #24 & 197), and a cable-base<sup>d</sup> lifting system (Figure 1, #191-194 & 197), and since the linked lifting structure of Naramura would have provided the advantage of moving the upper surface in one simultaneous step by simply engaging the motor (column 6, lines 45-55) thus providing easier operation as compared to the individual screws of Benson et al which must be adjusted sequentially. It would have been obvious to one of ordinary skill in the art to include a cable pulling element in the invention of Benson et al, in view of Naramura, since both are directed to cooking devices with dual surfaces, since Benson et al already included cables, winders, pulleys, and a motor (Figure 1, #191-193 & 197), since Naramura already included a puller element (Figure 1, #6), and since a cable system would be less bulky, and also less likely to become jammed by debris, as compared to the screw system of Naramura (Figure 1, #9).

### ***Response to Arguments***

9. Applicant's arguments filed January 27, 2003 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208

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USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 703-305-0300. The examiner can normally be reached on Monday-Thursday 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.

Drew E Becker  
Examiner  
Art Unit 1761

  
April 15, 2003